

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of

Determination of Rates and Terms for Digital
Performance of Sound Recordings and Making
of Ephemeral Copies to Facilitate Performances
(Web V)

Docket No. 19-CRB-0005-WR
(2021–2025)

**SOUNDEXCHANGE’S UNOPPOSED MOTION TO CONFORM THE REGULATIONS
TO THE JUDGES’ DETERMINATION CONCERNING ACCOUNT NUMBERS**

SoundExchange, Inc., the American Federation of Musicians of the United States and Canada (“AFM”), Screen Actors Guild-American Federation of Television and Radio Artists (“SAG-AFTRA”), The American Association of Independent Music (“A2IM”), Sony Music Entertainment (“Sony”), UMG Recordings, Inc. (“UMG”), Warner Music Group Corp. (“WMG”), and Jagjaguwar Inc. (collectively, “SoundExchange”), through their undersigned counsel, respectfully request that the Judges conform the regulations to be adopted in this proceeding to the portion of their Initial Determination addressing use of account numbers in connection with statutory license payments and reporting. Counsel for SoundExchange has raised this matter with counsel for the services, and they have informed SoundExchange they do not oppose this motion.

Throughout this proceeding, SoundExchange proposed terms that would require a statutory licensee to use a SoundExchange-provided account number on or with its payments, statements of account and reports of use, if SoundExchange has notified the Licensee of such an account number. Proposed Rates and Terms of SoundExchange, Inc. and Artist and Copyright Owner Participants at 4, 13-14 (Sept. 23, 2019). SoundExchange built a record supporting these terms, and the services participating in this proceeding did not oppose these terms. *E.g.*, SoundExchange’s

Public Version

Proposed Findings of Fact and Conclusions of Law ¶¶ 1667-1670 (Oct. 7, 2020); Services Reply to SoundExchange’s Proposed Findings of Fact and Conclusions of Law ¶¶ 1667-1670 (Oct. 28, 2020).

Based on the foregoing, the Judges’ Initial Determination states that “[REDACTED]
[REDACTED]
[REDACTED].” Initial Determination 296 (June 11, 2021).¹ However, the regulatory language that SoundExchange proposed to implement the account number terms was not included in the regulations appended as Exhibit A to the Initial Determination. Based on the body of the Initial Determination, and taking into account the section numbering in Exhibit A, it appears that the Exhibit A regulations should be modified as follows:

1. At the end of Section 380.2, add the following new subsection (e):

(e) Use of account numbers. If the Collective notifies a Licensee of an account number to be used to identify its royalty payments for a particular service offering, the Licensee must include that account number on its check or check stub for any payment for that service offering made by check, in the identifying information for any payment for that service offering made by electronic transfer, in its statements of account for that service offering under § 380.3, and in the transmittal of its Reports of Use for that service offering under § 370.4 of this chapter.

2. In Section 380.3(a), renumber paragraphs (3) through (8) as paragraphs (4) through (9):
3. In Section 380.3(a), add the following new paragraph (3):

(3) The account number assigned to the Licensee by the Collective for the relevant service offering (if the Licensee has been notified of such account number by the Collective);

¹ The quoted language is treated as restricted because the Judges have not yet released the public version of their Initial Determination. No participant has suggested that the quoted language ought to be treated as confidential.

Public Version

To implement the decision of the Judges concerning the account number terms as stated in the Initial Determination, SoundExchange respectfully requests that the Judges so modify the Exhibit A regulations when they publish their Final Determination.

Dated: June 28, 2021

Respectfully submitted,

By: /s/ Steven R. Englund
Steven R. Englund (DC Bar 425613)
JENNER & BLOCK LLP
1099 New York Avenue NW Suite 900
Washington, D.C. 20001
(202) 639-6000
(202) 639-6066 (fax)
senglund@jenner.com

*Counsel for SoundExchange, Inc., AMF,
Screen Actors Guild-American Federation of
Television and Radio Artists, American
Association of Independent Music, Sony Music
Entertainment, UMG Recordings, Inc., Warner
Music Group Corp., and Jagjaguwar Inc.*

Proof of Delivery

I hereby certify that on Monday, June 28, 2021, I provided a true and correct copy of the SoundExchange's Unopposed Motion to Conform the Regulations to the Judges' Determination Concerning Account Numbers to the following:

Educational Media Foundation, represented by David Oxenford, served via ESERVICE at doxenford@wbklaw.com

Google Inc., represented by Kenneth L Steinthal, served via ESERVICE at ksteinthal@kslaw.com

National Religious Broadcasters Noncommercial Music License Committee, represented by Karyn K Ablin, served via ESERVICE at ablin@fhhlaw.com

Pandora Media, LLC, represented by Benjamin E. Marks, served via ESERVICE at benjamin.marks@weil.com

National Association of Broadcasters, represented by Sarang V Damle, served via ESERVICE at sy.damle@lw.com

Sirius XM Radio Inc., represented by Benjamin E. Marks, served via ESERVICE at benjamin.marks@weil.com

Signed: /s/ Steven R. Englund